

## General Requirement

The Maine Human Rights Act (“MHRA”) requires that housing providers allow the use of service animals and assistance animals by individuals with disabilities. While there are some exceptions, the general rule is one of inclusion, requiring that the service or assistance animal be allowed to be present.

### What is a Service Animal or an Assistance Animal? How are they different?

The MHRA defines “service animal” as a dog that has been individually trained to do work or perform tasks for the benefit of a person with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. The work the dog is trained to do must be directly related to the person’s disability. Examples include: assisting a person with a vision loss in navigation; alerting a person with a hearing loss to the presence of people or sounds; providing physical assistance with balance and stability to a person with a mobility disability; and reminding a person with an intellectual disability to take a medication.

Maine law separately defines a category of “assistance animals”, often referred to as “emotional support”, “comfort” or “therapy” animals. An “assistance animal” is an animal (dog, cat, bird, etc.) that is EITHER determined necessary to mitigate the effects of a mental or physical disability by a physician, psychologist, physician assistant, nurse practitioner or licensed social worker OR is individually trained to do work or perform tasks for the benefit of an individual with a

physical or mental disability. This can include the types of externally-observable work service animals provide but also can include providing emotional support, well-being, comfort, or companionship related to an invisible disability (such as depression, anxiety, and certain phobias); they can - but do not always - have special training to perform tasks that assist people with disabilities.

A housing provider is required to allow a tenant to be accompanied by an assistance/ service animal if the animal is necessary to allow the disabled person to enjoy the benefits of the housing. A service/assistance animal is an aid that helps a person with a disability access the housing accommodation, like a wheelchair or cane. Service/assistance animals are not pets; so “no pet” policies do not apply to them.

As this change in Maine law is recent, many people with disabilities are not aware of the new distinction in Maine law between service and assistance animals.

### What about tenants’ visitors who have Assistance/ Service Animals?

A housing provider is also required to allow a person with a disability who is visiting a tenant to be accompanied with a service/ assistance animal, even if the housing provider has a “no pets” policy. Why? Because the MHRA prohibits discriminating against a tenant because of his/her association with a person with a disability. If the tenant’s visitor is a person with a disability accompanied by an assistance/ service animal, the housing provider may not deny the tenant the benefits

and privileges of the housing accommodation (like having visitors) because of the visitor’s disability-related need for a service/ assistance animal.

### Can a housing provider ask for the Animal’s identification (tags/collar/ID)?

It is not necessary for a service/assistance animal to have a special ID card, be certified, be registered, or wear a harness or collar identifying it as an assistance/service animal. Some service/assistance animals have these characteristics, but they are not required in order for an assistance/ service animal to be covered under the MHRA.

### What can a housing provider ask a person with a Service/Assistance Animal?

A housing provider may ask about the nature of the person’s disability if it is not obvious and for some evidence that the service/assistance animal has been trained or prescribed. Evidence of training may be shown by demonstration. The housing provider may not demand that a person with a disability provide a medical release to review the person’s medical records or talk to the person’s medical provider.

### Terms of Use:

The person with a service/assistance animal should be afforded the same housing experience on the same terms as other tenants without service/assistance animals. This means, for example, that the person should not be isolated or removed from the normal usage areas of the housing accommodation.

It is also unlawful for an apartment owner to designate specific apartments for tenants with service/assistance animals.

It is illegal to charge a person with a service / assistance animal extra fees for the animal. For example, a housing provider cannot impose an additional security deposit for a service/assistance animal, even if it charges such a fee for pets. Remember, a service/assistance animal is not a pet; it is an aid that allows the person with a disability an equal opportunity to use and enjoy the housing. Housing providers may charge for damage (other than normal wear and tear) caused by service/assistance animals, however, if it is the normal practice to charge for damage.

A service/assistance animal generally must be on a halter/tether/leash when it is outside the residence of the tenant with a disability or is visiting a tenant with a person with a disability, unless the handler's disability prevents using a halter/ tether/leash, or doing so would interfere with the work or task the animal is trained to do. If the animal cannot be on a halter/tether/leash, it must be otherwise under the handler's control (such as through voice command or hand signals).

#### **What if there's a problem with a Service/ Assistance Animal? Can it be removed?**

Yes, under certain, limited circumstances. A service/assistance animal may be removed from the premises if either (a) it is a direct threat to the health or safety of others, or (2) it would result in substantial physical damage to the property of others, or (3) it substantially interferes with the reasonable enjoyment of the

housing by others. A dog that regularly barks at night while other tenants are trying to sleep or nips at other people, for example, can permissibly be removed. There must be a factual basis for removing the animal, however, and not simply fears or stereotypes about certain animals. For example, an animal with a history of aggressive behavior may be denied access or removed but not one that is merely a certain size or breed. If tenants have allergies to the animal, it may be necessary to accommodate all people concerned, such as by keeping the animal away from the person with allergies while still allowing the person with the animal access to the housing.

#### **What if the landlord's rules or insurance excludes certain animal breeds/types?**

The landlord cannot impose breed restrictions or limit the type of animal permitted as an assistance animal other than to comply with Maine law (such as zoning ordinances or restrictions on exotic animals).

A landlord may not want to allow a certain breed or animal because it is not covered by the building's insurance. In that case, the analysis focuses on whether the request for an assistance animal is a reasonable accommodation, considering factors like availability of an insurance rider or another insurance policy and the total cost compared to the resources available. Landlords cannot require the tenant to get insurance unless it requires all tenants to do so.

## **SERVICEANIMALS and ASSISTANCE ANIMALS IN HOUSING**



## **KNOW YOUR RIGHTS & RESPONSIBILITIES**

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Maine Human Rights Commission  
51 State House Station  
Augusta, Maine 04333

(207) 624-6290 (phone)  
(207) 624-8729 (fax)  
TTY: Maine Relay 771

[www.maine.gov/mhrc](http://www.maine.gov/mhrc)

*Compliance with this section of the Maine Human Rights Act can be technical and complicated. Feel free to call us with any questions you may have!*